

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case No.: <b>12-N-10200-PEM</b>
	)	
<b>JAMES SYME PARTRIDGE,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 136207,</b>	)	<b>ENROLLMENT</b>
	)	
A Member of the State Bar.	)	

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Respondent James Syme Partridge (respondent) was charged with willfully violating California Rules of Court, rule 9.20, by willfully disobeying or violating a court order requiring compliance with rule 9.20. He failed to participate either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on December 7, 1988, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On February 14, 2012, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, and by regular mail at his membership records address. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On February 17, 2012, a return card was received by the State Bar unsigned. The NDC sent by regular mail was not returned by the U.S. Postal Service.

Respondent had actual notice of this disciplinary proceeding. On March 22, 2012, the State Bar spoke to respondent by telephone at his official membership records telephone number. Senior Trial Counsel Susan Chan of the State Bar informed respondent about the pending proceeding and the State Bar's intention to file a motion for entry of default for his failure to file a response to the NDC. He was advised that he would have to move to set aside his default once the motion was filed. Respondent stated that he wanted to resign from the practice of law. On March 26, 2012, the State Bar sent a resignation packet to respondent.

Respondent, however, failed to file a response to the NDC. On March 26, 2012, the State Bar filed and properly served upon respondent a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar senior trial counsel declaring the additional steps taken to

provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on April 16, 2012. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On October 22, 2012, the State Bar filed and properly served the petition for disbarment on respondent at his membership records address by certified mail, return receipt requested. As required by rule 5.85(A), the State Bar reported in the petition that: (1) there has been no contact with respondent since his default was entered; (2) there are no other disciplinary matters pending against respondent; (3) respondent has four prior records of discipline; and (4) the Client Security Fund has not made payments resulting from respondent's misconduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on January 7, 2013.

Respondent has been disciplined on four prior occasions.<sup>3</sup> On May 5, 2006, respondent was publicly reprovved for improper withdrawal from employment and failure to obey court order. Respondent and the State Bar entered into a stipulation as to facts, conclusions of law and the disposition in this matter.

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<sup>3</sup> The court takes judicial notice of the pertinent State Bar Court records regarding this prior discipline, admits them into evidence and directs the Clerk to include copies in the record of this case.

Pursuant to a Supreme Court order filed on August 26, 2009, respondent was suspended for one year, the execution of which was stayed, and was actually suspended from the practice of law for a minimum of 90 days and until the State Bar Court grants a motion to terminate his suspension. Respondent was disciplined for failing to comply with the conditions attached to his public reproof.

Pursuant to a Supreme Court order filed on June 25, 2010, respondent was suspended for one year, the execution of which was stayed, placed on probation for one year, and was actually suspended from the practice of law for 30 days and until he complies with the requirements in accordance with the August 26, 2009 Supreme Court order. Respondent was disciplined for failing to comply with a court order. Respondent and the State Bar entered into a stipulation as to facts, conclusions of law and the disposition in this matter.

Pursuant to a Supreme Court order filed on September 28, 2011, respondent was suspended for three years, the execution of which was stayed, placed on probation for four years, and was actually suspended from the practice of law for two years and until he provides proof of his rehabilitation, fitness to practice and learning and ability in the general law. He was disciplined for failing to comply with court orders. Respondent and the State Bar entered into a stipulation as to facts, conclusions of law and the disposition in this matter.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

**Case Number 12-N-10200 (Rule 9.20 Matter)**

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) and Business and Professions Code section 6103 (violation of court order) by not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of a Supreme Court order requiring compliance with California Rules of Court, rule 9.20.

**Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) respondent had actual notice of the proceedings prior to the entry of his default, as Senior Trial Counsel Chan and respondent spoke by telephone. Senior Trial Counsel Chan informed respondent about the pending proceeding and the State Bar's intention to file a motion for entry of default for his failure to file a response to the NDC;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent James Syme Partridge be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

## **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that James Syme Partridge, State Bar number 136207, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: April \_\_\_\_, 2013

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PAT McELROY  
Judge of the State Bar Court